



VIA EMAIL ONLY

TO: Chairman and Commissioners
California Fair Political Practices Commission

FROM: Chip Nielsen

DATE: January 7, 2011

RE: Proposed Amendments to Regulation 18313.5

Based on the staff memo of November 24, 2010, I would like to share my personal views on the proposed amendments and ask that you not follow your staff's recommendation to limit postings to complaints and exclude responses.

On page 5 of the staff memo, five reasons are offered against public postings of any kind of response from those to be investigated. I address each in order:

1. **Timing Issues:** I trust the Commission and the staff can overcome this concern by adjusting calendars and/or current regulations to allow both redacted complaints and redacted responses to be posted publicly if the Commission agrees that it is sound public policy to post responses.
2. **Process Issues:** The staff currently redacts information from complaints, and if this regulation were to allow only a respondent's direct rebuttal of the alleged violation to be posted, staff should be able to similarly redact the rest of the response. There is no reason that posting a response must be "all or nothing" as that is not the standard applied to the complaint.

For example, if the complaint states that A did not file a report, what is the harm for the public to know that A claims A did file it and cites a Cal Access link? A's supportive arguments or statements of mitigation would be redacted.

3. **Content Issues:** Since judgment is already required in redacting an argumentative complaint, the regulation should be able to apply the same standard to the redacting of a response.

4. **Balance Issues:** This will be moot if appropriate redaction applies to both complaints and responses, and the regulation should state that counter-responses will not be posted. I agree with the staff that the regulation should not facilitate campaign messages.

In summary, respondents should have the same and equal standing as complainants. The public benefits from such parity.

Respectfully submitted.

VGN/djf